

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No. 26169 of 2014 (O&M)
Decided On : 07.12.2018**

Hari Krishan Dangwal

...Petitioner

versus

State of Punjab and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. S. S. Kaliramna, Advocate,
for the petitioner.

Mr. Abhay Pal Singh, AAG, Punjab.

Ms. Meena Bansal, Advocate,
for respondents No.2 and 3.

ARUN MONGA, J. (ORAL)

The present writ petition has been filed seeking quashing of impugned order dated 04.10.2013 (Annexure P-4), declining the claim of the petitioner for removal of the anomaly in his pay fixation by stepping up his pay-scale owing to the fact that a person junior to the petitioner i.e respondent No.4 was drawing higher salary than the petitioner after revision of pay-scale, which took place from 01.01.2006.

2. The petitioner joined the respondent-Corporation in the year 1977 and had unblemished service record. He retired as S.A.S Accountant on 30.04.2010. Petitioner was promoted as SAS Accountant on 09.11.2015, however, his junior was

promoted as SAS Accountant on 01.07.2007. Despite the fact that the petitioner is senior, respondent No.4 who is/was junior is drawing more salary than the petitioner.

3. In response thereto, respondents No.2 and 3 filed written statement along with the Pay Comparison Chart of petitioner viz.a.viz Respondent No.4 (Annexure R-3/1) which reflects that even though on 01.01.2006, the petitioner was getting equivalent pay to his junior. However, owing to the anomaly later on for the period 01.07.2006, 01.07.2007, 01.09.2007, 01.07.2008, 01.09.2008, 01.07.2009 and 01.09.2009, his salary was admittedly less than that of his junior. The said Pay Comparison Chart is a document submitted by the respondents themselves and the same, therefore, reflects a conceded position qua the salaries drawn by the petitioner and respondent No.4. As per the said Chart, the last pay drawn by the petitioner was ₹31,150/- as against ₹32,090/- drawn by respondent No.4.

4. Learned counsel for the petitioner relies on financial circular No.06 of 2013 (Annexure P-2) issued on 08.01.2013 in respect of removal of anomaly issued by the Punjab State Power Corporation Limited by stepping up the pay of senior employees getting the pay less than their juniors.

5. A perusal of the said circular clearly reflects that the Corporation had decided to give an opportunity to remove anomaly upto 31.03.2013 to those employees who retired upto

the date of issue of said circular No.06/2013 and whose pay had been fixed less than that of their junior after revision of pay w.e.f 01.01.2006. Relying on the said circular, the petitioner represented to the Corporation vide his letter dated 18.06.2013 (Annexure P-3) which is stated to be in continuation of his earlier letters dated 28.01.2013, 08.02.2013, 09.04.2013 and 22.05.2013, requesting them to let him know the outcome of his pay anomaly qua which he had been representing in the past.

5. It is contended that vide impugned order dated 03.10.2013 (Annexure P-4), the respondent-Corporation wrongly rejected the claim of petitioner on the sole ground that the same cannot be entertained as per financial Circular No.04/2004 issued on 18.03.2004, since he had made request for correction of pay anomaly after his retirement. Hence, the present writ petition.

6. Learned counsel for the respondent contends that as per Finance Circular No.4/02 issued on 15.04.2002 (Annexure R-3/3), followed by Finance Circular No.4/04 issued on 18.03.2004 (Annexure R-3/4), the claim of petitioner has been rightly rejected. As the employees, who come forward to make such request after long time of the date of event, particularly after their retirement, were not entitled to same owing to the inordinate delay.

7. Learned counsel for the respondent also contends that the said finance circular clearly envisages that a request for correction in pay anomaly would be entertained only if submitted

by the employee while in service and no request after retirement can be entertained.

8. I am of the view that the stand taken by learned counsel for the respondent-Corporation does not stand scrutiny of law and is not tenable in view of conceded position as envisaged in circular No.6/13. The circular 4/04 is prior in time and the same is superseded by circular No.6/13 dated 18.01.2013. For ready reference, the relevant part of circular No.6/13, *ibid*, is extracted herein below :

“ Punjab State Power Corporation Limited has decided to give an opportunity to remove anomaly up to 31.03.2013 to those employees retired upto the date of issue of circular and whose pay has been fixed lower than that of their junior due to revision of pay scales w.e.f 01.01.2006.”

9. In view of the circular No.6/13, there is no ambiguity to the effect that the petitioner was entitled to seek correction of the anomaly of his pay upto the date of issuance of circular No.06/13 dated 18.01.2013. Admittedly, the petitioner retired on 30.04.2010 which is before the date of issuance of circular and he had been representing immediately after the issuance of circular from 28.01.2013 and respondent rejected his claim in view of old circular No.4/04. Petitioner's case was covered by circular No.6/13 dated 18.01.2013. These facts have not been controverted by learned counsel for the respondents.

10. That being the position, the present writ petition is

allowed in view of circular No.06/13 and the respondents are directed to remove pay anomaly of the petitioner, step up and bring his pay at par with his juniors with effect from 01.07.2007 as reflected in Pay Comparison Chart Annexure R-3/1 and release all consequential monetary benefits with interest @ 6% per annum from the date the amount fell due till payment to the petitioner. No order as to costs.

(ARUN MONGA)
JUDGE

DECEMBER 07, 2018
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| 1. | Whether speaking/reasoned : | Yes/No |
| 2. | Whether reportable : | Yes/No |